

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 08-01541 MV/KBM

FRANCISCO BURCIAGA,

Defendant.

ORDER DENYING LETTER REQUESTING GUIDANCE

THIS MATTER is before the Court *sua sponte* on Defendant Francisco Burciaga's Letter Requesting Guidance filed March 1, 2018. (Doc. 372). In his letter, Burciaga "asks for the court's clerks for assistance and help in directing this petitioner as to proper venue or proper corse (sic) to take in this matter." (Doc. 372 at 1). The Court may not advise Burciaga or otherwise act as his advocate in this matter. *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir.1991). The Court will deny his Letter Requesting Guidance.

The Court also notes that the issue discussed by Burciaga in his Letter Requesting Guidance is an issue that has been repeatedly raised and adjudicated against him, both in this Court and in the Tenth Circuit. Burciaga may not continue to abuse the judicial process by filing improper post-conviction motions and proceedings raising the same issues despite being advised that his filings are improper. "[T]he right of access to the courts is neither absolute nor unconditional, and there is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious." *Tripati v. Beaman*, 878 F.2d 351, 353 (10th Cir.1989) (citations omitted) (per curiam). District courts have the inherent power to regulate filings of abusive

litigants by imposing carefully tailored restrictions in appropriate circumstances. *Andrews v. Heaton*, 483 F.3d 1070, 1077 (10th Cir.2007) (citing *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir.2006); *Tripati v. Beaman*, 878 F.2d at 352). The Court notifies Burciaga that, if he continues to submit improper post-conviction filings raising the same issues that have already been adjudicated against him, the Court may consider imposing filing restrictions.

IT IS ORDERED that Defendant Francisco Burciaga's Letter Requesting Guidance filed March 1, 2018 (Doc. 372) IS **DENIED**.



UNITED STATES MAGISTRATE JUDGE